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Patent Capital Group 6119 McCommas Blvd Dallas, TX 75214			EXAMINER WALSH, JOHN B	
			ART UNIT 2451	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/806,578	<b>Applicant(s)</b> SEBES ET AL.	
	<b>Examiner</b> John B. Walsh	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE of 8/4/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/5/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1- 43 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-28 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process.

As concerns claims 29-43, use of the word system does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the system is a physical part of a device can the system as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 101. The “client” and “server” recited in the claim do not constitute a physical device.

### ***Claim Objections***

3. Claims 39 and 43 are objected to because of the following informalities:

Claim 39 recites “the method of claim 38”. However claim 38 is drawn to a system.

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Claim 43 recites “the method of claim 36”. However claim 36 is drawn to a system.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-11, 13-19, 21-27, 29-31, 33, 36-38, 40 and 43 are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,699,513 to Feigen et al.

As concerns claims 1 and 17, determining whether one or more usage-conditions are met (abstract); intercepting a connection request (abstract-connection request messages);

determining whether one or more usage conditions are met (col. 5, lines 1-15), wherein if at least one of the conditions is not met, then the connection request is not sent to the server (timed-out; col. 5, line 65-col. 6, line 3), and wherein the conditions that would permit the connection request to be sent include a persistent usage condition in which a client to server conduit was previously authorized (abstract-confirm user’s authenticity and authorization; col. 5, line 7-security host; col. 5, line 55) and a designated time interval (col. 5, lines 1-15) for the persistent usage condition has not lapsed (time-out period; see also col. 6, lines 50-55-other time-out techniques).

As concerns claims 2 and 18, forwarding the request to the server over the communication-conduit when the one or more usage conditions are met (fig. 1, 28).

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As concerns claims 3, 14, 19, 26, 31 and 38, identifying a first network address of the server (fig. 2), a second network address (fig. 2) of the client and a port number (fig. 2 and 4) of the communication-conduit.

As concerns claims 5, 21, 30 and 37, the determining step comprises: obtaining a confirmation from a human (inherent for a human to indirectly provide confirmation, since human interaction was involved in creation/programming of computer system; fig. 5-114; human establishes security system and user must be confirmed by this system), and determine whether the communication conduit was used by the client prior to the client's sending the connection request (fig. 4; 72).

As concerns claims 6 and 37, obtaining a confirmation from a human wherein the human is associated with the client or has administrative privilege (inherent for a human to indirectly provide confirmation, since human interaction was involved in creation/programming of computer system).

As concerns claim 8, determining whether a configuration of the client comprises one or more pre-determined data (col. 7, line 1-user authentication data).

As concerns claims 9 and 16, determining whether a repository/system admin comprises one or more authorization data pertinent to the message (col. 3, lines 25-40).

As concerns claim 10, within a pre-determined time-window (time-out period; see also col. 6, lines 50-55-other time-out techniques).

As concerns claims 11 and 21, determining whether the connection request is sent within a pre-determined time-window (fig. 4; 68).

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As concerns claims 13 and 25, discarding the message when the one or more usage conditions are not met (abstract; col. 4, lines 20-30-not authorized; col. 3, lines 25-40-filter out if conditions not met).

As concerns claims 15 and 27, logging a result of the determining step (col. 6, lines 19-25).

As concerns claims 22 and 43, the service-proxy determines a request-type indicated by the service request (col. 8, lines 43-45).

As concerns claims 7, 10, 23 and 24, a TCP connection or session (col. 7, lines 63-64).

As concerns claims 29 and 36, a communication-proxy/service-proxy (fig 1, 26) for intercepting a connection request (abstract-connection request messages) from a client (fig 1) to a server (fig 1) over a communication conduit (figure 1; networks);

wherein the communication-proxy/service-proxy is programmed to determine whether one or more communication conduit usage conditions are met (col. 5, lines 1-15), and wherein if at least one of the conditions is not met, then the connection request is not sent to the server (timed-out; col. 5, line 65-col. 6, line 3), and wherein the conditions that would permit the connection request to be sent include a persistent usage condition in which a client to server conduit was previously authorized (abstract-confirm user's authenticity and authorization; col. 5, line 7-security host; col. 5, line 55) and a designated time interval (col. 5, lines 1-15) for the persistent usage condition has not lapsed( time-out period; see also col. 6, lines 50-55-other time-out techniques).

As concerns claims 33 and 40, the communication-proxy resides in a network element in a communication path between the client and the server (fig. 1, 16, 26).

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6. Claims 1, 2, 5-13, 15, 17, 18, 21, 22, 25, 27, 29, 30, 33-37 and 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,560,008 to Johnson et al.

As concerns claims 1, 17, 29 and 36, a communication/service-proxy (fig. 5, 23-agent); intercepting a service-initiation request (abstract, line 7-client requesting a service; col. 5, lines 48-65) to establish a communication conduit (abstract-communication link) between an client (abstract, line 2-client system; col. 1, lines 65-67) and a server (abstract, line 3- server system; col. 1, lines 65-67),

and determining whether one or more communication-conduit usage conditions are met (abstract-lines 9-12), wherein if at least one of the conditions is not met, then the request is not sent to the server (abstract lines 12-15-deny access), and wherein the conditions that would permit the request to be sent include a persistent usage condition in which a client to server conduit was previously authorized (abstract lines 9-12-id authorized) and a designated time interval for the persistent usage condition has not lapsed (col. 6, lines 15-30-held long enough, discarded; col. 6, lines 38-50).

As concerns claims 2 and 18, forwarding the message to the server over the communication-conduit when the one or more usage conditions are met (fig. 9, 908; fig. 8, 806, 810).

As concerns claims 5, 21, 30 and 37, the determining step comprises: obtaining a confirmation from a human (inherent for a human to indirectly provide confirmation, since human interaction was involved in creation/programming of computer system; human establishes security system and user must be confirmed by this system), and determine whether the

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communication conduit was used by the client prior to the client's sending the connection request (fig. 7-9).

As concerns claim 6, obtaining a confirmation from a human wherein the human is associated with the client or has administrative privilege (inherent for a human to indirectly provide confirmation, since human interaction was involved in creation/programming of computer system).

As concerns claim 7, determining whether the client used the communication conduit at any time prior to the client's sending the connection request (determined whether they have a current credential id).

As concerns claim 8, whether a configuration of the client comprises one or more pre-determined data (fig. 9, 905).

As concerns claim 9, determining whether a repository (fig. 9, 905, table)/system admin comprises one or more authorization data pertinent to the message.

As concerns claim 10, within a pre-determined time-window (col. 6, lines 15-30-held long enough, discarded; col. 6, lines 38-50).

As concerns claims 11 and 37, determining whether the connection request is sent within a pre-determined time-window (col. 6, lines 15-30-held long enough, discarded; col. 6, lines 38-50).

As concerns claim 12, the time window comprises one or more weekday peak usage hours (time granted may fall into a "peak usage hour"; col. 6, lines 40-45).

As concerns claims 13 and 25, discarding the request when one or more usage conditions are not met (abstract lines 12-15-deny access; fig. 7-9).



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As concerns claims 15 and 27, logging a result of the determine step (Fig. 7; 710,717).

As concerns claims 22 and 43, identifying a request-type indicated by the service-initiation request (413; col. 7, line 32).

As concerns claims 33 and 40, the communication proxy/service-proxy resides in a network element, the network element in a communication path between the client and the server (fig. 5, 23-agent; inherent for agent to be on a network element; server process in communication path with agent).

As concerns claims 34 and 41, the communication proxy/service-proxy and the client reside on the same host (fig. 5).

As concerns claims 35 and 42, the communication proxy/service-proxy and the server reside on the same host (fig. 5).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 20, 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,699,513 to Feigen et al. as applied above in view of U.S. Patent Application Publication 2003/0120811 to Hanson et al.

Feigen et al. '513 do not explicitly disclose sending a plurality of DHCP reply messages for binding a first address of a first host to a second address of a second host, the plurality of

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DHCP reply messages sent to a third host, the server residing on the first host, and the client residing on the third host.

Hanson et al. '811 teach DHCP (0286, 0287).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the system of Feign et al. '513 with DHCP, as taught by Hanson et al. '811, in order to provide a means of automatically assigning addresses. Such a modification is a combination of known elements yielding predictable results.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,699,513 to Feigen et al. as applied above in view of U.S. Patent No. 6,587,877 to Dougliis et al.

Feign et al. '513 do not explicitly disclose determining whether the message is sent within a pre-determined time-window, wherein the time window comprises one or more weekday peak usage hours.

Dougliis et al. '877 teach determining whether the message is sent within a pre-determined time-window, wherein the time window comprises one or more weekday peak usage hours (col. 3, lines 1-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the system of Feign et al. '513 with determining a time window, as taught by Dougliis et al. '877, in order to provide a means of providing a correspondence between the time of communication and the budget of the user, thus balancing the traffic of the network and saving the user more money. Such a modification is a combination of known elements yielding predictable results.

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10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,699,513 to Feigen et al. as applied above in view of U.S. Patent No. 6,442,686 to McArdle et al.

Feigen et al. '513 do not explicitly disclose notifying a system administrator.

McArdle et al. '686 teach notifying a system-administrator of a result of the determining step (col. 12, line 17).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Feigen et al. '513, with notifying an administrator, as taught by McArdle et al. '686, in order to provide a means of notifying a managing user of any potential problems such that they can be addressed. Such a modification is a combination of known elements yielding predictable results.

11. Claims 34, 35, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,699,513 to Feigen et al. as applied above.

Feigen et al. '513 do not explicitly disclose the proxy and the client/server residing on the same host. It would have been an obvious design choice to combine separate elements into a single element. Such a modification would provide predictable results.

12. Claims 3, 14, 19, 26, 31 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,560,008 to Johnson et al. as applied above in view of U.S. Patent No. 5,699,513 to Feigen et al.

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Johnson et al. '008 do not explicitly disclose a first and second network address and a port number. It would appear to be an inherent feature of Johnson to have a network address and port number since they are necessary for communications over a network. However in the alternative:

Feigen et al. '513 teach a first and second network address and a port number (fig. 2 and 4).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Johnson et al. '008 with network address and port number, as taught by Feigen et al. '513, since it would provide a means of indicating where a message is being sent and received from such that it is properly delivered. Such a modification is a combination of known elements yielding predictable results.

13. Claims 4, 20, 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,560,008 to Johnson et al. as applied above in view of U.S. Patent Application Publication 2003/0120811 to Hanson et al.

Johnson et al. '008 do not explicitly disclose sending a plurality of DHCP reply messages for binding a first address of a first host to a second address of a second host, the plurality of DHCP reply messages sent to a third host, the server residing on the first host, and the client residing on the third host.

Hanson et al. '811 teach DHCP (0286, 0287).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the system of Johnson et al. '008 with DHCP, as taught by Hanson et al. '811, in order

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to provide a means of automatically assigning addresses. Such a modification is a combination of known elements yielding predictable results.

14. Claims 16 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,560,008 to Johnson et al. as applied above in view of U.S. Patent No. 7,152,104 to Musante et al.

Johnson et al. '008 do not explicitly disclose notifying a system-administrator of a result of a determining step.

Musante et al. '104 teach notifying a system-administrator of an event (abstract-lines 1-5).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the notification of an event to an administrator, as taught by Musante et al. '104, in order to provide a convenient notification feature for administrative personnel. Such a modification is a combination of known elements yielding predictable results.

15. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,560,008 to Johnson et al. as applied above in view U.S. Patent No. 5,699,513 to Feigen et al.

Johnson et al. '008 do not explicitly disclose a specific context comprises a TCP connection.

Feigen et al. '513 teach a TCP connection (col. 7, lines 63-64).

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It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Johnson et al. '008 with TCP, as taught by Feigen et al. '513, in order to provide a protocol with reliable data exchange. Such a modification is a combination of known elements yielding predictable results.

### ***Response to Arguments***

16. Applicant's arguments filed August 4, 2009 have been fully considered but they are not persuasive.

The applicant argues Feigen does not disclose "a persistent usage condition in which a client to server conduit was previously authorized and a designated time interval for the persistent usage condition has not lapsed." The examiner disagrees since the claims have been given the broadest reasonable interpretation and Feigen does disclose, as addressed in the rejection above, authorizes a conduit for a client to server connection (see at least abstract-confirm user's authenticity and authorization; Fig. 4 and 5; col. 5, line 7-security host; col. 5, line 55); and a designated timer interval not lapsing (see at least Fig. 4; col. 5, lines 1-15; col. 5, line 65-col. 6, line 3).

The applicant argues the 103 rejections, none of the references alone or in combination disclose each limitation of the Independent claims, for the same reasons cited in the arguments for the 102 rejection analysis. The applicant's arguments in regard to McArdle et al. are moot in view of the new rejection in view of Johnson et al.

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***Conclusion***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/  
Primary Examiner, Art Unit 2451